



Daniel M. Butcher appeals the sentence imposed by the trial court following his guilty plea to theft<sup>1</sup> as a Class D felony. On appeal, he raises the following issue: whether his sentence of thirty months, with fifteen months executed and fifteen months suspended to probation, is appropriate in light of the nature of the offense and his character.

We affirm.

### **FACTS AND PROCEDURAL HISTORY**

On January 21, 2006, Butcher arrived drunk at the home of Robert and Dena Lucas, a couple from whom he had rented a room for about seven months. No longer living with the Lucases, Butcher stopped by to pick up his tools. While in their home, Butcher entered the bathroom and stole two of Dena's diamond rings, which he found on the sink. Later that day, Butcher was arrested for operating a vehicle while intoxicated and was booked into the Madison County Jail.

On January 24, 2006, the Lucases discovered the rings were missing and reported both the crime and their suspicion of Butcher to Detective Terry Sollars of the Anderson Police Department. Detective Sollars took a description of the rings, returned to the jail, and found that the rings had been in Butcher's possession when he was booked into the jail. The State charged Butcher with one count of Class D felony theft.

During a June 2006 hearing, Butcher pled guilty to Class A misdemeanor driving while suspended and Class D felony operating while intoxicated—charges stemming from his January 21 arrest under Cause Number 48E01-0601-FD-30 (“No. 30”)—and

---

<sup>1</sup> See IC 35-43-4-2(A).

was ordered to serve twenty-four months executed and twelve months suspended to probation. At the same hearing, Butcher pled guilty to theft, and the trial court ordered a thirty-month sentence—fifteen months executed and fifteen months suspended to probation—to run consecutive to the sentence for No. 30. Butcher now appeals his sentence for theft.

### **DISCUSSION AND DECISION**

While recognizing that a court may act within its lawful discretion to determine a sentence, Butcher contends that we should revise his sentence pursuant to Ind. Appellate Rule 7(B) because it is inappropriate in light of the nature of the offense and his character. *Appellant's Br.* at 7-8.

Butcher first asserts that, when imposing his sentence for theft, the trial court failed to acknowledge his voluntary guilty pleas in both this case and No. 30. We disagree. First, Butcher does not appeal his sentence for No. 30. While a “defendant deserves to have some mitigating weight extended to him at sentencing based upon the plea,” *Scott v. State*, 840 N.E.2d 376, 383 (Ind. Ct. App. 2006), *trans. denied*, Butcher’s guilty plea in No. 30 is irrelevant to this appeal. Second, contrary to Butcher’s assertion, the trial court considered his guilty plea in imposing his sentence for theft. During the sentencing phase of the hearing, the State recommended that the trial court impose a sentence of thirty months to give Butcher “six months worth of credit for a straight guilty plea and taking responsibility for that matter.” *Tr.* at 18. The trial court accepted this recommendation and, thus, gave Butcher credit for his plea.

We cannot say that Butcher's sentence was inappropriate under Indiana Appellate Rule 7(B) in light of the nature of the offense and Butcher's character. We recognize "the 'inappropriate' standard is 'an authorization to revise sentences when certain broad conditions are satisfied.'" *Payne v. State*, 838 N.E.2d 503, 508 (Ind. Ct. App. 2005), *trans. denied* (2006); *Neale v. State*, 826 N.E.2d 635, 639 (Ind. 2005). However, these conditions have not been satisfied in this case.

Butcher had a criminal history and a substance abuse problem. In 2005, Butcher was in Madison County trying to clean up his life and stay away from drinking, drugs, and his old friends. *Tr.* at 24. Robert Lucas befriended Butcher when the two were working together and offered him room and board. Butcher accepted the offer, lived with the Lucases for seven months, and stored his tools there. After moving out, Butcher returned to the Lucases' home to retrieve his tools. Arriving drunk, Butcher entered their bathroom and stole two diamond rings off the sink. Butcher stole from a couple that had befriended him and tried to help him out in his time of need.

During the sentencing phase of the hearing, Butcher made the following comments that shed light on his character:

On my criminal history, I know that's a lot of charges and a lot of long time of screwing up. Like I said, I'm thirty years old and I ain't gettin' no younger. I mean, if I have to go to [Department of Correction], I guess I deserve it, but, uh, if given the chance of community corrections, I'm pretty serious about straightening my life up. And, if I get community corrections and I screw it up, I mean, you've always got me right back. Just lot's [sic] of (indiscernible) time. Whatever the Court believes.

*Id.* Butcher also noted: "I never really had, uh, was given any treatment in a lot of the cases. When I did get treatment, I kind of blew it off as far as not really taking it

seriously.” *Id.* at 20-21. By his own account, Butcher had an extensive criminal history and had not followed through on previous treatment opportunities.

Prior to accepting Butcher’s guilty plea, the trial court advised him that he could receive thirty-six months executed on his Class D felony theft charge to run consecutive to his sentence on No. 30. *Id.* at 9. The State urged the court to impose thirty months executed. *Id.* at 18. The trial court sentenced Butcher to only fifteen months executed and another fifteen months of probation. With credit for good behavior, Butcher would be eligible for release after seven and one-half months in prison. *See* IC 35-50-6-3 (“A person assigned to Class I earns one day of credit time for each day he is imprisoned for a crime or confined awaiting trial or sentencing.”). Butcher’s sentence was not inappropriate in light of the nature of the offense and his character.

Affirmed.

RILEY, J., and FRIEDLANDER, J., concur.